

REMARKS

Claims 1-8 were presented for examination and were pending in this application. In the latest Office Action, claims 1-8 were rejected. With this amendment, claim 1 is amended. On the basis of the following remarks, consideration of this application and allowance of all pending claims are requested.

Claims 1, 3-6, and 8 were rejected as anticipated by U.S. Patent No. 6,667,956 to Beshai et al. Claim 2 was rejected as made obvious by Beshai in view of U.S. Patent No. 6,246,692 to Dai et al. Claim 7 was rejected as made obvious by Beshai in view of U.S. Patent No. 6,631,128 to Lemieux.

History

The currently pending rejections based on Beshai (either alone or in combination with other references) were made in the penultimate Office Action. In response to this Office Action, Applicant argued, *inter alia*, that neither Beshai nor any of the other cited references discloses the claimed feature that “the capacity of each connection [is] controlled from its destination node.”

In the most recent Office Action, in response to Applicant’s argument, the examiner asserted that Beshai discloses “providing traffic measurement data from node control elements 28 (destination nodes) and the periodic analysis of this data by the network control element 26 to determine appropriate sizes (capacities) for the links 24 (connections).” The examiner further asserted that the “node control elements 28 (destination nodes) are involved in the process of controlling the capacities of the links 24 as they measure traffic load and provide this data to the network control element 26 so that the sizes (capacities) of the links 24 may be appropriately adjusted.” For this reason, the examiner concluded that this indirect involvement by the “node

control elements" (i.e., the alleged destination nodes) in the control of the "capacities" by the network control element satisfied the claimed limitation.

Initially, Applicant does not necessarily agree that the measurement of traffic loads, which may affect the control of link size, constitutes the claimed control of connection capacities, or that Beshai's "node control elements" could even be equated with the claimed destination nodes. However, Applicant has amended the claims to make the distinction between the claims and Beshai even more clear. In particular, and in view of the examiner's comments in the previous Office Action, the claims as amended now recite that "the capacity of each connection [is] controlled directly from its destination node." This language clearly excludes the type of involvement by the node and network control elements of Beshai in the control of link sizes. At best, the "node control elements" (i.e., the alleged destination nodes) in Beshai could only indirectly affect how the "network control element" controls link size.

Accordingly, neither Beshai, nor any combination of Beshai proposed in the Office Action, discloses the claimed feature that "the capacity of each connection [is] controlled directly from its destination node." The amended claims are therefore patentable over the cited references.

Statement of Substance of Interview

Applicant's representative Robert Hulse conducted a telephonic interview with examiner Michael Moore on May 8, 2007. In this interview, the rejection of the claims based on the Beshai reference was discussed. In particular, Applicant's representative proposed that the present amendment would distinguish Beshai and the other cited references, especially in view of the examiner's comments in the previous Office Action. This proposed amendment was

received favorably by the examiner, but because prosecution on the merits had been closed, the examiner suggested that Applicant make the proposed amendment with the present RCE.

Accordingly, Applicant is now making the amendment as requested.

Applicant also appreciates (and accepts) the examiner's offer for an interview before a next Office Action in the event a Notice of Allowance does not follow this amendment.

Based on the foregoing, the application is in condition for allowance of all claims, and a Notice of Allowance is respectfully requested. If the examiner believes for any reason direct contact would help advance the prosecution of this case to allowance, the examiner is encouraged to telephone the undersigned at the number given below.

Respectfully submitted,
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